

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
WILTON NC NY LLC,

Plaintiff,

-against-

MH I INVESTMENT LLC, and
FRANK T. SINITO, and
MALISSE SINITO,

Defendants.

ANALISA TORRES, District Judge:

USDC SDNY
DOCUMENT
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DATE FILED: 6/25/2025

24 Civ. 5526 (AT)

ORDER

On June 13, 2025, Defendants filed an amended answer to Plaintiff's amended complaint, asserting that Plaintiff had consented to the filing of the amended answer pursuant to Federal Rule of Civil Procedure 15(a)(2). ECF No. 59 at 1 n.1. Four days later, Plaintiff submitted a letter stating that it never consented to the filing and that Defendants' assertion otherwise was a "material misrepresentation." ECF No. 60 at 1; *see also* ECF No. 62. Defendants responded that they "understood Plaintiff to have consented to the filing of Defendants' amended answer" and, considering that Plaintiff intends to file a second amended complaint that would moot the issue, accused Plaintiff of engaging in "unnecessary gamesmanship." ECF No. 61 at 1–2.


According to Defendants, their last email communication with Plaintiff stated that, "absent objection, [Defendants] would like to get the attached [amended answer] on file." *Id.* at 2. Without waiting to hear back, Defendants filed their amended answer on the same day. ECF No. 59. Clearly, Defendants should have given Plaintiff more than a matter of hours to consent to the filing. Accordingly, the court STRIKES their amended answer at ECF No. 59. Should Defendants wish to amend their answer, they will need to comply with Rule 15(a)(2) by obtaining Plaintiff's written consent or the Court's leave.

The Court intends to move forward with this action expeditiously. By **July 3, 2025**, Plaintiff shall move to amend its complaint, if it so desires. By **July 11**, all fact discovery concerning Counts 4 and 5 of the amended complaint shall be completed, and the parties shall jointly submit a letter certifying as such. *See* ECF No. 58. By **July 25**, the parties shall file any pre-motion letters for summary judgment.

Because the Court has already granted Plaintiff's request to bifurcate this action, *see* ECF No. 44 ¶¶ 5–7, 11, the Clerk of Court is respectfully directed to terminate the motion at ECF No. 33.

SO ORDERED.

Dated: June 25, 2025
New York, New York



ANALISA TORRES
United States District Judge